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General Assembly
Sixty-second session

Official Records

110th plenary meeting
Tuesday, 8 July 2008, 3 p.m.
New York

President: Mr. Kerim ..... (The former Yugoslav Republic of Macedonia)

The meeting was called to order at 3.25 p.m.

Agenda item 7 (*continued*)

Organization of work, adoption of the agenda and allocation of items: request for the inclusion of additional items on the agenda

Note by the Secretary-General (A/62/236)

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The President: The General Assembly will first turn to document A/62/236, relating to the extension of the terms of the ad litem judges of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991.

In his note, the Secretary-General indicates that the current terms of the ad litem judges of the International Tribunal for the Former Yugoslavia come to an end on 23 August 2009. In the absence of a provision of the Statute of the International Tribunal to extend the terms of office of these judges, the approval of the Security Council and of the General Assembly would be needed in order to extend the terms of office of the ad litem judges of the Tribunal until 23 August 2010.

To enable the consideration of this matter, the Secretary-General requests the inclusion in the agenda of the sixty-second session of the Assembly of an additional item entitled "Extension of the terms of the ad litem judges of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991".

I give the floor to the representative of the Russian Federation.

Mr. Rogachev (Russian Federation) (*spoke in Russian*): We wish to caution the Assembly against taking a hasty decision on the inclusion of an additional item on the agenda of the sixty-second session of the Assembly, on extension of the terms of the ad litem judges of the International Criminal Tribunal for the Former Yugoslavia (ICTY). Under rule 15 of the Assembly's rules of procedure, the author of a proposal must justify its important and urgent character for the Assembly to decide to consider it during this concluding portion of its current session.

But we see no such justification in the note of the Secretary-General (A/62/236). Indeed, the note states that the terms of the ad litem judges of the ICTY come to an end only on 23 August 2009. Where, then, is the urgency?

Even considering the desirability — especially for the judges — of a prompt resolution of this matter, we believe that there is plenty of time to consider this issue and to take a well-considered decision. And such a well-considered decision is precisely what we must take, for we do not at present know the deadline for extending the terms of ICTY judges, and this is unlikely to be known during 2008. That is because we

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do not know exactly how long the Tribunal will be functioning.

As members know, in its resolution 1534 (2004), the Security Council established completion strategies for both tribunals, according to which they must complete all trial activities at first instance by the end of 2008 and complete all appeals by the end of 2010. But the ICTY is already reporting to the Security Council that it will be unable to meet the deadlines that have been set. For the Security Council and the General Assembly to extend the terms of the judges so early would encourage the very policies and practices that have led to this undesirable situation.

The modalities for the future functioning of the tribunals are currently under discussion in the Security Council. Specifically, a mechanism is being developed to define what are being called the residual mechanisms of the tribunals, which will function once those judicial bodies have ceased to exist.

We understand the concerns of the President of the International Criminal Tribunal for Rwanda, because the terms of that body's judges expire at the end of this year, but we see no urgency in the request regarding the International Criminal Tribunal for the Former Yugoslavia. The President of the ICTY cites the need to appoint a number of ad litem judges for hearings that are soon to begin, but we wish to stress that such a decision requires no resolution by either the General Assembly or the Security Council. Such a decision is within the purview of the Secretary-General.

The Security Council has begun to consider these requests, but has not to date achieved consensus. Especially in view of the lack of consensus in the Council, it is not warranted to take a procedural decision to consider this item directly in plenary meeting of the General Assembly, thus bypassing the General Committee.

The President: I call on the representative of Cyprus, who wishes to speak on a point of order.

Mr. Mavroyiannis (Cyprus): I would like some clarification here from the Secretariat, because it is not very clear to me why this request for an additional item on the agenda came directly to the General Assembly plenary rather than going through the General Committee.

The President: I call on the representative of the Secretariat.

Mr. Shaaban (Under-Secretary-General for General Assembly and Conference Management): The note by the Secretary-General contains a reference to the urgent character of this item. In adopting the procedure for today's meeting, we considered the note by the Secretary-General, which highlights the urgency of including this item in the agenda. The General Assembly is the master here, because, whenever there is a recommendation by the General Committee, the matter must come before the Assembly.

The President: I call on the representative of Cyprus.

Mr. Mavroyiannis (Cyprus): I confess that I am a bit puzzled, because, having read the note — although it mentions the important and urgent character of the item — I do not believe that this is sufficient reason to bypass the General Committee. As the representative of the Russian Federation said, we have ample time. I really do not understand on the basis of which rule this request came directly to the plenary of the General Assembly.

The President: I see the point that the representative of Cyprus has made. As we have already planned a meeting of the General Committee for Thursday, 10 July, we can defer consideration of this matter until that meeting. Does the representative of Cyprus wish to propose that we do so?

Mr. Mavroyiannis (Cyprus): I do indeed propose that the General Committee take up this matter at its Thursday meeting.

The President: I accept that proposal.

Before turning to the request submitted by the Secretary-General in document A/62/237, relating to the extension of the terms of the judges of the International Criminal Tribunal for Rwanda, I must inform the Assembly that the Secretariat has just informed me that we lack a quorum. I propose therefore to defer consideration of this item.

I call on the representative of Saint Lucia.

Mr. St. Aimee (Saint Lucia): I do not believe that we had a quorum when we took a decision on the request relating to the International Criminal Tribunal for the Former Yugoslavia, and I would like a clarification as to the status of that decision.

The President: A quorum was not required for that decision: the President can take such a decision, and I decided to refer the matter to the General Committee, based on the proposal by our colleague from Cyprus.

I call on the representative of Cyprus.

Mr. Mavroyiannis (Cyprus): I should like to propose that the request for an additional item relating to extension of the terms of the judges of the International Criminal Tribunal for Rwanda also be taken up by the General Committee on Thursday. There is no fundamental difference between the two issues, so why should we not take this one up in the General Committee as well? We could subsequently come back to the General Assembly.

The President: I think that proposal is appropriate; the two matters are related. I therefore propose that we first discuss them both during the next meeting of the General Committee, on Thursday afternoon, and then come back to the General Assembly.

The meeting rose at 3.45 p.m.